

AMENDED IN SENATE MAY 4, 2006
AMENDED IN SENATE APRIL 18, 2006
AMENDED IN SENATE APRIL 4, 2006

SENATE BILL

No. 1744

Introduced by Senator Bowen

February 24, 2006

An act to amend Section 1785.11.2 of the Civil Code, relating to information privacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1744, as amended, Bowen. Information privacy: consumer credit reports.

Existing law regulates the activities of consumer credit reporting agencies and permits a consumer to place a security freeze on his or her consumer report. Existing law establishes procedures for temporarily lifting and for removing these security freezes.

On and after September 1, 2008, this bill would revise and recast the procedures for temporarily lifting and for removing a security freeze on a consumer credit report. Among other things, the bill would require a consumer credit reporting agency to establish an electronic contact method *and a toll-free telephone number* for taking requests from consumers to *temporarily lift* ~~or remove~~ security freezes and would require that requests that are made pursuant to ~~this method~~ *these methods* during business hours, as defined, be effective within 15 minutes, except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1785.11.2 of the Civil Code is amended to read:

1785.11.2. (a) A consumer may elect to place a security freeze on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency. "Security freeze" means a notice placed in a consumer's credit report, at the request of the consumer and subject to certain exceptions, that prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. If a security freeze is in place, information from a consumer's credit report may not be released to a third party without prior express authorization from the consumer. This subdivision does not prevent a consumer credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(b) A consumer credit reporting agency shall place a security freeze on a consumer's credit report no later than five business days after receiving a written request from the consumer.

(c) The consumer credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days and shall provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his or her credit for a specific party or period of time.

(d) If the consumer wishes to allow his or her credit report to be accessed for a specific party or period of time while a freeze is in place, he or she shall contact the consumer credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) Proper identification, as defined in subdivision (c) of Section 1785.15.

(2) The unique personal identification number or password provided by the credit reporting agency pursuant to subdivision (c).

(3) The proper information regarding the ~~third~~ *specific* party who is to receive the credit report or the time period for which the report shall be available to users of the credit report.

(e) A consumer credit reporting agency that receives a request from a consumer to temporarily lift a freeze on a credit report that satisfies the requirements of subdivision (d), or a request to remove a security freeze that satisfies the requirements of subdivision (j), shall comply with the request as follows:

(1) Within three business days after the business day on which the consumer's written request to lift the security freeze is received at the postal address established by the consumer credit reporting agency pursuant to subdivision (f).

(2) Within 15 minutes after the consumer's request to temporarily lift a security freeze for a period of time is received during normal business hours by the consumer credit reporting agency through the electronic contact method or the telephone number established by the consumer credit reporting agency pursuant to subdivision (f). For purposes of this section, normal business hours means 9:00 a.m. to 5:00 p.m., *Pacific standard time*, Monday through Friday.

(3) The failure of a consumer credit reporting agency to respond within a period required by this section is not a violation of this section if that failure is due to an act of God, natural disaster, or other emergency or calamity, reasonable maintenance of any telephone system or electronic contact method for receiving communications from consumers, or the operational failure of that system or method that could not have been prevented or avoided by the exercise of due care or foresight.

(f) A consumer credit reporting agency shall develop procedures for receiving and processing a consumer's request to ~~place, temporarily lift, and remove~~ a security freeze. These methods shall include:

(1) A postal address.

(2) A toll-free telephone number.

(3) An electronic contact method selected by the consumer credit reporting agency, which may include the use of fax, the Internet, or other electronic means.

(g) A consumer credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to place a security freeze on a credit report pursuant to subdivisions (a) and (b), to temporarily lift a security freeze for a

1 *specific party pursuant subdivision (d), or to remove a security*
2 *freeze pursuant to subdivision (k).*

3 (h) A consumer credit reporting agency shall remove or
4 temporarily lift a freeze placed on a consumer's credit report
5 only in the following cases:

6 (1) Upon consumer request, pursuant to subdivision (d) or ~~(j)~~
7 (k).

8 (2) If the consumer's credit report was frozen due to a material
9 misrepresentation of fact by the consumer. If a consumer credit
10 reporting agency intends to remove a freeze upon a consumer's
11 credit report pursuant to this paragraph, the consumer credit
12 reporting agency shall notify the consumer in writing prior to
13 removing the freeze on the consumer's credit report.

14 ~~(h)~~

15 (i) If a third party requests access to a consumer credit report
16 on which a security freeze is in effect, and this request is in
17 connection with an application for credit or any other use, and
18 the consumer does not allow his or her credit report to be
19 accessed for that specific party or period of time, the third party
20 may treat the application as incomplete.

21 ~~(i)~~

22 (j) If a consumer requests a security freeze, the consumer
23 credit reporting agency shall disclose the process of placing and
24 temporarily lifting a freeze, and the process for allowing access
25 to information from the consumer's credit report for a specific
26 party or period of time while the freeze is in place.

27 ~~(j)~~

28 (k) A security freeze shall remain in place until the consumer
29 requests that the security freeze be removed. A consumer credit
30 reporting agency shall remove a security freeze ~~upon~~ *within 3*
31 *business days of* receiving a request for removal from the
32 consumer; who provides both of the following:

33 (1) Proper identification, as defined in subdivision (c) of
34 Section 1785.15.

35 (2) The unique personal identification number or password
36 provided by the credit reporting agency pursuant to subdivision
37 (c).

38 ~~(k)~~

39 (l) A consumer credit reporting agency shall require proper
40 identification, as defined in subdivision (c) of Section 1785.15,

1 of the person making a request to place or remove a security
2 freeze.

3 ~~(t)~~

4 (m) The provisions of this section do not apply to the use of a
5 consumer credit report by any of the following:

6 (1) A person or entity, or a subsidiary, affiliate, or agent of
7 that person or entity, or an assignee of a financial obligation
8 owing by the consumer to that person or entity, or a prospective
9 assignee of a financial obligation owing by the consumer to that
10 person or entity in conjunction with the proposed purchase of the
11 financial obligation, with which the consumer has or had prior to
12 assignment an account or contract, including a demand deposit
13 account, or to whom the consumer issued a negotiable
14 instrument, for the purposes of reviewing the account or
15 collecting the financial obligation owing for the account,
16 contract, or negotiable instrument. For purposes of this
17 paragraph, “reviewing the account” includes activities related to
18 account maintenance, monitoring, credit line increases, and
19 account upgrades and enhancements.

20 (2) A subsidiary, affiliate, agent, assignee, or prospective
21 assignee of a person to whom access has been granted under
22 subdivision (d) of Section 1785.11.2 for purposes of facilitating
23 the extension of credit or other permissible use.

24 (3) Any state or local agency, law enforcement agency, trial
25 court, or private collection agency acting pursuant to a court
26 order, warrant, or subpoena.

27 (4) A child support agency acting pursuant to Chapter 2 of
28 Division 17 of the Family Code or Title IV-D of the Social
29 Security Act (42 U.S.C. et seq.).

30 (5) The State Department of Health Services or its agents or
31 assigns acting to investigate Medi-Cal fraud.

32 (6) The Franchise Tax Board or its agents or assigns acting to
33 investigate or collect delinquent taxes or unpaid court orders or
34 to fulfill any of its other statutory responsibilities.

35 (7) The use of credit information for the purposes of
36 prescreening as provided for by the federal Fair Credit Reporting
37 Act.

38 (8) Any person or entity administering a credit file monitoring
39 subscription service to which the consumer has subscribed.

1 (9) Any person or entity for the purpose of providing a
2 consumer with a copy of his or her credit report upon the
3 consumer's request.

4 ~~(m)~~

5 (n) This act does not prevent a consumer credit reporting
6 agency from charging a fee of no more than ten dollars (\$10) to a
7 consumer for each freeze, removal of the freeze, or temporary lift
8 of the freeze for a period of time, or a fee of no more than twelve
9 dollars (\$12) for a temporary lift of a freeze for a specific party,
10 regarding access to a consumer credit report, except that a
11 consumer credit reporting agency may not charge a fee to a
12 victim of identity theft who has submitted a valid police report or
13 valid Department of Motor Vehicles investigative report that
14 alleges a violation of Section 530.5 of the Penal Code.

15 SEC. 2. This act shall become operative on September 1,
16 2008.